



Solon Township Hall  
15185 Algoma Avenue NE  
Cedar Springs MI 49319  
616-696-1718

**Minutes of the Regular Meeting of the Solon Township Board of Trustees  
May 15, 2018 @ 7:30p.m.**

**Meeting called to Order by Supervisor Ellick at 7:30pm.**

**Members Present:** Robert Ellick, Mark Hoskins, Mary Lou Poulsen, Fred Gunnell, Arthur Gerhardt

**Members Absent:** none

**Pledge of Allegiance & Invocation**

**Public Comment on Agenda Items** - none

**Approve Agenda**

A motion was made by Gunnell to approve agenda, seconded by Hoskins. The motion carried 5-0.

**Approve Consent Agenda**

A motion was made by Hoskins to approve consent agenda, seconded by Gerhardt.  
The motion carried 5-0.

- a. Approve minutes from April 10, 2018 Regular Board Meeting
- b. Approve minutes from May 2, 2018 staff meeting
- c. Approve Bill List
- d. Clerk's Rev/Exp Report & Balance Sheets
- e. Treasurer's Report
- f. Building Inspector's Report
- g. Fire Chief's Statistics Report

**Committee Reports**

- \* Cedar Springs Public Library – Donna Clark
- \* Cedar Springs Area Parks and Rec. - none
- \* Solon Park Planning Committee – none
- \* Fire Committee – none

**Old Business**

- **Radar Speed Sign** – no action

**New Business**

- **Hay field bids**

A motion was made by Hoskins to accept offer from Ben Anderson to barter for hay with offer of brush hog & cut grass areas around path, level parking area behind Hall, and level middle hump of 2 driveways at cemetery, seconded by Gunnell. Motion carried 5-0.

- **Tax Foreclosed property**

A motion was made by Ellick to purchase 4.55 acres of property at 15745 Algoma Ave under tax foreclosure, at a cost of approx. \$4,500, seconded by Gerhardt. Motion carried 5-0.

- **KCI Tax Bills & Newsletter mailing - \$1885.58**

A motion was made by Gerhardt to authorize expenditure of \$1,885.58 to mail tax bills and newsletter seconded by Gunnell. Motion carried 5-0.

- **Update building & zoning forms**

A motion was made by Ellick to approve updates to building & zoning forms, seconded by Poulsen. Motion carried 5-0.

- **FD Printer - \$455.99**

A motion was made by Poulsen to approve purchase of printer for FD, seconded by Hoskins.  
Motion carried 5-0

- **FD Appreciation Dinner - \$1379**

A motion was made by Hoskins to approve expenditure up to \$1379 for FD Appreciation Dinner, seconded by Gunnell. Motion carried 5-0.

- **FD Target Solutions renewal - \$2294.41**

A motion was made by Poulsen to authorize renewal of Target Solutions training software, seconded by Gunnell. Motion carried 5-0.

- **FD office furniture - \$2,007 or \$3271**

A motion was made by Poulsen to approve proposal by West Michigan Office Interiors, seconded by Hoskins. Motion carried 5-0.

- **Treasurer Computer - \$869.60**

A motion was made by Ellick to approve \$869.60 purchase of computer for Treasurer's office, seconded by Gerhardt. Motion carried 5-0.

- **Building Administrator Computer - \$709.60**

A motion was made by Ellick to approve \$709.60 purchase of computer for Bldg Dept, seconded by Gunnell. Motion carried 5-0.

- **NFPA 1582 Exam from Bio-Care - \$4,125**

A motion was made by Hoskins to approve quote of \$4,125 from Bio-Care for physical exams, seconded by Gerhard. Motion carried 5-0.

- **SCBA flow testing – 14 SCBAs - \$1,500**

A motion was made by Ellick to approve flow testing cost of \$1,500, seconded by Poulsen.  
Motion carried 5-0.

- **Personal Protective Equip (Nielsen,Cebrero,Schmidt,Elliott,Nielsen) - \$4,044.85**

A motion was made by Poulsen to approve purchase of PPEs, seconded by Gunnell.  
Motion carried 5-0.

- **Cable TV at Fire Station**

A motion was made by Hoskins to approve basic cable package, seconded by Gunnell.  
Motion carried 4-1.

- **Dock Removal contracted at Olin Lakes - \$1500 plus dumpster costs**

A motion was made by Gunnell to approve \$1,500 in labor and dumpster cost related to dock removal, seconded by Hoskins.

Public commented:

Sean – shared handout #1. Rather than removing docks, can't the township use the money to improve the area. Township is appealing seasonal residents to disallow use – so they have more access for their pontoons.

Al – Platted 1923/1924. Docks there since 1950's. Are we getting survey? (Supervisor stated no need for survey, original easement will stay the same). Milfoil grows 17' high so will clog fairly quickly. Need time to repair items at easement.

Sean – if permanent docks removed, will floating docks be allowed? (Supervisor stated easement ends at water's edge). This action devaluates 17 properties. (Trustee Hoskins stated the properties still have access to lake). But this lake has muck and choking weeds. He wouldn't feel safe having his son swim there.

Chuck Morgan – shared handout #2 attached regarding court case where plaintiffs wanted docks removed. Court sided with defendants through prescriptive easement. Houses at Olin Lakes tagged by Township as unsafe houses should be fixed by Township (Supervisor and Trustee Hoskins stated some houses have been condemned by Health Dept and foreclosed by Banks – Township has no authority or "tags" on any house). Suggests we get with our legal department because a court case is coming. (Supervisor stated that township attorney has already advised township on this matter).

Al – Has all the board gotten complaints about the docks? Who started this process? Effluence from trailer park that used to be there. Milfoil problem – maybe could have someone from MSU do a study.

Sean – Steve Cole would be grateful to township for getting the house removed last year. Thank you for that.

Gary – some of docks are bad shape, but dock #3 is new a few years ago and cost about \$3,000. Why is that one being torn out? Why want to get rid of good dock?

Jeff Alt – Bought property knowing docks have been there to use. Used them for about 30 ears of his life. The dock he puts his pontoon on is in good shape.

Motion carried 5-0.

- **Extension of deadline to remove boats, docks, etc. at Olin Lakes easement**

A motion was made by Hoskins to extend deadline for removal until midnight of May 29, 2018, seconded by Ellick. Motion carried 5-0.

### **Correspondence**

Thank you from Cedar Springs Historical Society for Township's support.

**Trustee Gunnell:** MTA Kent County Chapter disbanded.

**Trustee Hoskins:** none.

**Treasurer:** none.

**Clerk:** none

**Supervisor:** In court twice in last 2 weeks for ongoing issue on Wiersma property.

Judge ordered defendant's attorney to accompany all parties to the site to inspect.

Attorney saw all items that needed to be removed and took pictures. Has 4 weeks for all to be cleaned up.

### **Additional public comments:**

C Matulis – If there is a problem with milfoil at Olin Lakes as previously mentioned, can't get rid of it without poisoning.

J. Hall – He hasn't seen milfoil problem at Olin Lakes.

Jackie ? – Didn't P.C. approve Maple Leaf plan – wasn't Board supposed to approve tonight? Supervisor will

follow up with attorney.

Olin Lakes resident - worried about repercussion of board's decision regarding dock removal. Residents are in

process of PPO. (Supervisor: Sheriff's office is aware of situation.)

A motion was made by Hoskins to adjourn, support by Gunnell, motion carried 5-0.

**Meeting adjourned @ 8:37 pm.**

**NEXT MEETING:** June 12, 2018

Handout #1  
Sean

SECTION 3.32 ACCESS TO LAKES AND STREAMS.

A. Definitions. For purposes of this section:

1. "Access Property" means a property, parcel of land or lot abutting a lake, stream or other body of water, either natural or artificial, and used or intended to be used for the providing of access to a lake, stream or other body of water by pedestrian or vehicular traffic to and from off-shore, non-frontage land, regardless of whether access to such body of water is gained by easement; fee or undivided interest ownership of land by one or more owners; lease; license; condominium or site condominium rights or interests; gift; business or personal invitation; or any other form of conveyance, dedication, approval or consent, whether in writing or oral.

2. "Dwelling Unit" means a dwelling structure designed for use by one family or other occupancy, whether for seasonal, all-season, temporary or other use, and it shall include, but not be limited to single family dwellings, mobile homes, recreational units, hotels and motels, apartments, condominium units, cooperative units, attached residential unit or other residence unit, however located. Each separate dwelling unit within a multiple family dwelling structure shall be a separate dwelling unit for purposes of this section.

B. No land shall be used or provided for use as access property from off-shore, non-water frontage lands to or for a lake, stream or other body of water, either natural or artificial,

unless there shall be provided access property that has (1) a water frontage of at least 125 feet as measured along the water's edge of the normal high water mark of the lake or stream for each dwelling unit using such access property; and (2) a minimum area of access property of at least 9,500 square feet for each dwelling unit using the access property, or any part thereof.

Solon Township Chapter 3

Zoning Ordinance General Provisions

3-48

1. The minimum depth back from the ordinary high water mark, for an access property, shall be 100 feet.

2. Water frontage of an access property shall not include a swamp, wetland, marsh or bog. No swamp, wetland, marsh or bog shall be altered by dredging, the addition of earth or fill material or by the drainage of water for the purpose of altering or increasing the length of water frontage required by this section, or for the purpose of otherwise attempting to comply with this section.

3. An access property shall not abut an artificially-made canal or channel.

4. No canal or channel shall be constructed, dredged or excavated for the purpose of altering or increasing the length of water frontage required by this section, or for the purpose of otherwise attempting compliance with this section.

5. An access property, irrespective of its total area, shall not be used for residential, commercial or other purposes.

6. The provisions of this subsection shall apply to any parcel of land, regardless of whether access to a lake, stream or other body of water shall be gained or provided by easement, fee or other ownership, lease, license, consent, invitation, condominium or site condominium or any other form of conveyance, dedication or consent.

C. The provisions of this section shall not apply to existing actual access occurring from non-frontage lands, to lakes, streams and other bodies of water, where such existing access is lawfully occurring at the effective date of this section, from non-frontage lands that are platted or otherwise of record at the effective date of this section; provided, however, that this section shall nevertheless apply to any expansion or increase in existing actual access, including the following:

1. Any expansion of existing actual access occurring from non-frontage lands, to lakes, streams and other bodies of water, including, but not limited to, access from or for additional dwelling units and/or from or for additional parcels of land.

2. Any increase in the scope, intensity or frequency of existing actual access from non-frontage lands, to lakes, streams and other bodies of water.

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Lake and Dock Access Rights: Michigan Court of Appeals Addresses... <https://www.lexology.com/library/detail.aspx?g=dd334d5c-2c3e-41...>

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## Lake and Dock Access Rights: Michigan Court of Appeals Addresses Riparian Rights and Prescriptive Easements

**Mitchell Williams Selig Gates & Woodyard PLLC**

USA June 15 2017

*Co-Author: Mary Kate Thompson*

The Court of Appeals of Michigan, in a May 23rd decision, addressed whether lot owners without lake frontage had certain rights related to a subdivision dock. See *McEwen v. Guthrie et. Al*, 2017 WL 2262882.

The questions addressed included whether dock privileges could be based on:

1. a right to install, maintain, use, or dock in the subdivision under the language of the deeds and plant definition; or
2. a prescriptive easement.

James and Barbara McEwen ("plaintiffs") appealed a lower court declaratory judgement for the defendants.

The defendants consisted of neighbors who owned backlots, or lots without lake frontage along Patterson Lake ("lake"). Since the 1950's backlot owners had periodically installed a dock at the end of Lakeview drive. Plaintiffs claimed that the defendants' rights were limited to the right to access the lake.

The lower court found that the defendants had a right to install, maintain, and use a dock under the applicable deed language and a prescriptive easement.

The Court of Appeals affirmed.

The Court of Appeals concluded that the plain language of the deeds as well as the plat dedication granted the backlot owners limited access to the lakes. The relevant language of the plat stated:

The streets and alleys as shown on said plat are hereby dedicated to the use of the lot owners.

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Lake and Dock Access Rights: Michigan Court of Appeals Addresses... <https://www.lexology.com/library/detail.aspx?g=dd334d5c-2c3e-41...>

The deeds stated:

... with full privileges [sic] to the lot owner the wright [sic] away to the lake and the wright [sic] to have no more than two boats on shore at any time fore [sic] private use only.

The court also found that this access included a commensurate right to build a dock at the road end, citing *Thies v. Howland*, 380 NW2d 463 (1985). In *Thies*, the court stated that:

Public ways which terminate at the edge of navigable waters are generally deemed to provide public access to the water... Any dock which is constructed at the end of a common way must be made available for the use of those to whom the way is dedicated.

The right to erect and maintain a dock is usually an exclusively riparian right, or a right exclusively enjoyed by lake front owners. Technically the rights of the plaintiffs are littoral, as they own land that abuts a lake, and riparian refers to land that abuts a river. However, the terms have been used interchangeably by courts. As a result they are now deemed functionally synonyms.

*Thies* stands for the proposition that if a public right of way terminates at the edge of a waterway, it can be presumed that the intent was to provide public access to the water. A dock is an extension of that right, by allowing better access.

The backlot owners were therefore deemed to have a right to construct and maintain a dock for daytime docking and mooring of boats. Further, the court concluded that the defendants had the right to overnight and permanent docking of their boats, due to the creation of a prescriptive easement.

A prescriptive easement is an easement that results "from use of another's property that is open, notorious, adverse, and continuous for a period of fifteen years." It was uncontested that the use of the dock was open, notorious, and continuous for more than fifteen years. However, the plaintiffs argued that it was not adverse as the docks were installed pursuant to an agreement between the neighbors.

The court found that it did not matter if there was an agreement, written or oral, for the agreement would not "render their actions in doing less inconsistent with the rights of the property owner." As a result, the defendants had a prescriptive easement to use the dock.

Consequently, the Court of Appeals upheld the defendant's right to use the dock:

... in the daytime due to the language of the deeds and the plat dedication, and the right to nighttime and permanent use due to a prescriptive easement.

**Mitchell Williams Selig Gates & Woodyard PLLC - Walter Wright**

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